

CHAPTER 1 VOCATIONAL REHABILITATION SERVICES

100 GENERAL PROVISIONS

- 100.1 The Vocational Rehabilitation Administration (also referred to in this chapter as the "Administration") of the D.C. Department of Human Services (the "Department") shall be responsible for determining the eligibility of individuals for vocational rehabilitation services and for determining the acceptability of an individual for an extended evaluation to determine his or her rehabilitation potential.
- 100.2 The responsibilities set forth in §100.1 shall not be delegated to any other agency or individual not on the Administration staff.
- 100.3 Rehabilitation services shall be rendered to disabled persons in accordance with the provisions of the Vocational Rehabilitation Act (Pub. L. 83-565), as amended, applicable federal regulations, and the applicable laws and regulations of the District.
- 100.4 The Administration shall make rehabilitation services available to civil employees of the United States and District governments who are disabled in line of duty, under the same conditions applicable to other handicapped individuals.
- 100.5 The Administration shall make rehabilitation services available to Social Security beneficiaries in accordance with special provisions relating to the eligibility of Social Security beneficiaries paid for from trust funds.

101 BASIC REQUIREMENTS

- 101.1 The acceptance of an individual for an extended evaluation in order to determine his or her rehabilitation potential shall be based upon the following:
- (a) The presence of a mental or physical disability;
 - (b) The existence of substantial handicap to employment; and
 - (c) The inability to determine whether there is a reasonable expectation that vocational rehabilitation services may render the individual fit to engage in a gainful occupation.

101 BASIC REQUIREMENTS (Continued)

- 101.2 Eligibility for vocational rehabilitation services in each case shall be based upon the following:
- (a) The presence of a physical or mental disability;
 - (b) The existence of a substantial handicap to employment; and
 - (c) A reasonable expectation that vocational rehabilitation services may render the individual fit to engage in gainful occupation.
- 101.3 Rehabilitation potential and eligibility shall be determined without regard to sex, race, creed, color, or national origin of the individual.
- 101.4 No upper or lower limit shall be established that would, as a sole criterion, result in a finding of ineligibility.
- 101.5 No otherwise eligible individual who is present in the District shall be excluded from services on the basis of residence.

102 CERTIFICATION

- 102.1 Prior to, or simultaneously with, acceptance of an individual for vocational rehabilitation services for determination of rehabilitation potential, the Administration shall certify that the individual has met the basic requirements specified in §101.1. The certificate of acceptability shall be dated and signed by the counselor who makes the determination.
- 102.2 Prior to, or simultaneously with, acceptance of the individual for vocational rehabilitation services, the Administration shall certify that the individual has met the basic eligibility requirements specified in §101.2. The certificate of eligibility shall be signed and dated by the counselor who makes the eligibility determination.
- 102.3 If an individual is determined to be ineligible for vocational rehabilitation services, including vocational rehabilitation services to determine the rehabilitation potential, a certificate of ineligibility shall be executed for that individual specifying that basic eligibility requirements have not been met. The certification shall be signed and dated by the counselor making the determination.

§§103 - 104: RESERVED

105 ADMINISTRATIVE REVIEW

- 105.1 An applicant for, or recipient of, vocational rehabilitation services under the State Plan who is dissatisfied with any Administration decision with regard to furnishing or denial of services may file a request for review and redetermination of that decision.
- 105.2 Each complaint and request for review and redetermination shall be submitted within sixty (60) days of the action subject to complaint.
- 105.3 Complaints shall be filed in writing and shall indicate when and where the action(s) subject to complaint took place, and shall describe any pertinent facts and circumstances.
- 105.4 Review shall be made by the section supervisor of the immediate supervisor of the staff member making the original decision resulting in a complaint.

106 OPPORTUNITY FOR A FAIR HEARING

- 106.1 An opportunity for a fair hearing before the Administration shall be granted to any dissatisfied individual whose application for vocational rehabilitation services under the State Plan is denied or is not acted on with reasonable promptness.
- 106.2 Applicants for vocational rehabilitation services shall be advised in writing of their right to an opportunity for a fair hearing when dissatisfaction results from denied application or application for services is not acted upon with reasonable promptness.
- 106.3 The hearing shall be held at a time and place convenient to the dissatisfied individual requesting a fair hearing.
- 106.4 The individual requesting the hearing shall be notified in writing of the time and place of the hearing ten (10) days prior to the hearing.
- 106.5 In order to provide the individual requesting the hearing an adequate opportunity to prepare his or her case, the individual shall be notified in writing at least ten (10) days prior to the hearing of the following rights:
 - (a) His or her right to be represented at the hearing by counsel or other representative; and
 - (b) His or her right to present witnesses, if he or she desires.

107 HEARING PROCEDURES

- 107.1 At the hearing, the dissatisfied individual or his or her representative shall have an adequate opportunity for presenting witnesses, for cross examination, and for presenting evidence in his or her behalf.
- 107.2 The hearing shall be conducted by one (1) of the following:
- (a) The Administration Director;
 - (b) A supervisory staff member designated by the Director as fair hearing officer for the Administration who has not taken part in the action under consideration; or
 - (c) A panel or Appeals Board selected by the Director.
- 107.3 A verbatim transcript shall be made of all testimony given at the hearing. The full record shall include all exhibits.
- 107.4 The transcript, exhibits, and the hearing officer's recommendation shall constitute the exclusive record of the case and shall then be referred to the Director for review and disposition. This record shall be maintained in the Administration's files and shall be available to the dissatisfied individual at any reasonable time.

108 FINAL REVIEW DECISIONS

- 108.1 Authority to make a final decision based upon the review of the accumulated testimony, exhibits, and recommendations of the fair hearing officer shall be vested in and exercised by the Director or through his or her designated Appeals Board.
- 108.2 The decision shall set forth in writing the issues, the relevant facts brought out at the hearing, the pertinent provisions in law and in Administration policy, and the reasoning that led to the final decision on the case.
- 108.3 The dissatisfied individual or his or her designated representative shall be sent a copy of the final decision or shall be advised in writing of the contents of the decision.